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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/511,195	03/14/2005	Gerd Berghaus	11138.016	8673
757	7590	10/11/2006	EXAMINER	
BRINKS HOFER GILSON & LIONE P.O. BOX 10395 CHICAGO, IL 60610			CRANE, DANIEL C	
			ART UNIT	PAPER NUMBER
			3725	

DATE MAILED: 10/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/511,195

Applicant(s)

BERGHAUS, GERD

Examiner

Daniel C. Crane

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION:

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9-16 and 18 is/are rejected.
- 7) ☒ Claim(s) 8 and 17 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>10/12/2004</u> . | 6) <input type="checkbox"/> Other: ____. |

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BASIS FOR REJECTIONS

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

OBJECTION TO DRAWINGS

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the shaping unit first piston 4 and one of the second piston 2 and second cylinder 1 of the prestressing unit connected to an adapter plate 7 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must

be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

REJECTION OF CLAIMS ON FORMAL MATTERS

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 11 and 12 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Failure to provide a clear description and depiction of the shaping unit first piston 4 and one of the second piston 2 and second cylinder 1 of the prestressing unit connected to an adapter plate 7 renders the subject matter of the specification insufficient.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3, 10-12 and 15 are further rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. As to claim 3, use of the term “preferably” renders the subject matter indefinite because this is not definitive of the claimed construction. Failure to provide antecedence for the rigid connection to the driver plate renders the subject matter of claim 10 indefinite. Claim 9 from which claim 10 depends does not indicate that a rigid connection exists between the second cylinder/piston and the driver plate. As to claim 11, the use of “and”, first occurrence, in line 4 renders the claimed subject matter unclear. Use of the term “such as” in claim 15 is not definitive and thus renders the subject matter vague.

REJECTION OF CLAIMS OVER PRIOR ART

Claims 1-7, 9, 13, 14 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Hull (2,464,510). See Figure 1 where the shaping unit 5, 8, 46 is operated by a first fluid pressure and a prestressing unit 6, 9, 14 operated by a second fluid pressure. The first fluid pressure can be imparted to the space defined by cylinder 5 and piston 8 and the second fluid pressure can be imparted to the space defined by the cylinder 6 and piston 9. Note that pressure can be applied to these spaces *independently* by fluid passages 66, 67 and 68, 69 and 64, 65. Note also that the first and second pressure spaces are completely “separate” from one another even though a passageway 73 connects the spaces because each space is established by *separate* cylinder and piston components. They are mechanically interconnected but not mechanically

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driven together. This is the case, since the piston/cylinders in each space can be independently operated during the clamping/shaping operation and the clamping/shaping release operation. As to claim 2, the shaping unit and the prestressing unit are “closed off” in the sense that a wall 7 divides the two units and mechanically closes off or separates the two units. As to claim 6, plate 2 or 15 defines a “yoke” plate and is rigid with the first cylinder and second cylinder. With respect to claim 7, the opening 22 interacts with the clamping elements 14 and is located in the in the yoke plate 2. As to claim 9, the adapter plate is shown at 26 and the “driver plate” is depicted at 3, the claim not specifying “rigid” connection between the second piston/cylinder and the driver plate. With respect to claim 18, a “first fluid pressure” acts on the piston 8 via passage 73 and a “third fluid pressure” acts on the piston 8 through passage 64, 65.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hull (2,464,510) in view of Davis (5,253,506). Davis illustrates the conventionality of using pins 78 and 86 to maintain alignment and relative movement between the crimping segments that are radially moved during operation of the apparatus. It would have been obvious to the skilled artisan at the time of the invention to have modified Hull’s clamping segments 14 by further providing pins between the clamping segments using the *concepts* taught by Davis for the above noted motivation.

INDICATION OF ALLOWABLE SUBJECT MATTER

Claims 8 and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 10 and 15 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

PRIOR ART CITED BY EXAMINER

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

RESPONSE BY APPLICANT(S)

Applicant(s) response to be fully responsive and to provide for a clear record must specifically point out how the language of the claims patentably distinguishes them from the references, both those references applied in the objections and rejections and those references cited in view of the state of the art in accordance with 37 CFR 1.111 (a), (b) and (c).

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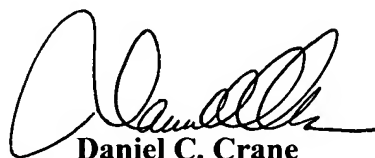
INQUIRIES

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner D. Crane whose telephone number is **(571) 272-4516**.

The examiner's office hours are 6:30AM-5:00PM, Tuesday through Friday. The examiner's supervisor, Mr. Derris Banks, can be reached at **(571) 272-4419**.

Documents related to the instant application may be submitted by facsimile transmission at all times to Fax number (571) 273-8300. Applicant(s) is(are) reminded to clearly mark any transmission as "DRAFT" if it is not to be considered as an official response. The Examiner's Fax number is **(571) 273-4516**.

DCCrane
September 29, 2006



Daniel C. Crane
Primary Patent Examiner
Group Art Unit 3725